

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-028-02-1-5-00310
Petitioner: Don & Eileen Plumb
Respondent: Department of Local Government Finance
Parcel #: 008-15-0477-0013
Assessment Year: 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held on January 22, 2004. The Department of Local Government Finance (the "DLGF") determined that the Petitioner's property tax assessment for the subject property was \$23,700 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 27, 2004.
3. The Board issued a notice of hearing to the parties dated August 9, 2004.
4. Special Master Michael R. Schultz held a hearing in Crown Point on September 23, 2004.

Facts

5. The subject property is located at 9139 Vigo Street, Merrillville.
6. The subject property is a vacant, unimproved residential lot measuring 97 feet by 276 feet.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of subject property as determined by the DLGF:
Land \$23,700 Total \$23,700.
9. Assessed Value requested by the Petitioner:
Land \$2,000 Total \$2,000.

10. The following persons were present and sworn as witnesses at the hearing:
For Petitioner — Donald L. Plumb, property owner,
For Respondent — Sharon Elliott, Cole-Layer-Trumble.

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
- a) Appraisal specialist shows a market value of \$0 for each lot based on the fact they are not buildable. *Plumb testimony; Petitioner Exhibit 12.*
 - b) The Petitioner believes there is some value to the properties, but not the amount reflected by the assessment. *Plumb testimony.*
 - c) Petitioner will accept the application of a negative 90 percent influence factor reflecting the inability to build on the subject property. *Plumb testimony.*
12. Summary of Respondent's contentions in support of assessment:
- a) The Respondent offered to apply a negative 90 percent influence factor to the land value to reflect the inability to build on the subject property. *Elliott testimony.*
 - b) The negative 20 percent influence factor currently applied to the land value would need to be removed before applying the negative 90 percent influence factor. *Elliott testimony.*

Record

13. The official record for this matter is made up of the following:
- a) The Petition,
 - b) The tape recording of the hearing labeled Lake County 296,
 - c) Petitioner Exhibit 1: Form 139L petition,
Petitioner Exhibit 2: Notice of Assessment, Form 11,
Petitioner Exhibit 3: Notice of Final Assessment,
Petitioner Exhibit 4: Quit Claim Deed for the subject property,
Petitioner Exhibit 5: Plat of Description by Plumb Tuckett & Associates,
Petitioner Exhibit 6: Copy of the plat for Sandpiper Unit 2,
Petitioner Exhibit 7: Copy of Soils Report by Environmental Soil Consultants,
Inc. for the subject property,
Petitioner Exhibit 8: Copy of Soils Identification from Lake County Health
Department,
Petitioner Exhibit 9: A letter from the Merrillville Plan Commission pertaining to
the subject property,

Petitioner Exhibit 10: Land Influence Adjustments for Lake County,
Petitioner Exhibit 11: Subject property record card,
Petitioner Exhibit 12: An appraisal of the subject property,
Petitioner Exhibit 13: Summary of the Petitioner's contentions,
Respondent Exhibit 1: Form 139L petition,
Respondent Exhibit 2: Subject property record card,
Board Exhibit A: Form 139L petition,
Board Exhibit B: Notice of Hearing,
Board Exhibit C: Sign in Sheet,

d) These Findings and Conclusions.

Analysis

14. The most applicable governing cases:
- a) A Petitioner seeking a review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
 - b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board ... through every element of the analysis”).
 - c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
15. There is sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because the parties agreed that the subject property should receive a negative 90 percent influence factor to reflect the inability to build on the lot. *Elliott testimony; Petitioners Exhibits 7, 8, 9, 12.*

Conclusion

16. The Petitioner made a case that the Respondent did not dispute. Instead of the 20 percent influence factor, this land should receive a 90 percent negative influence factor. The Board finds in favor of the Petitioner.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines the assessment should be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.